



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,291	12/14/2001	George E. Berkey	SP00-386	7658
22928	7590	03/24/2004	EXAMINER	
CORNING INCORPORATED			HOFFMANN, JOHN M	
SP-TI-3-1				
CORNING, NY 14831			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/023,291

Applicant(s)

BERKEY ET AL.

Examiner

John Hoffmann

Art Unit

1731

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): The double patenting and those based on 6477305.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☒ Other: See Continuation Sheet

John Hoffmann
Primary Examiner
Art Unit: 1731

Continuation of 5. does NOT place the application in condition for allowance because: The arguments were not persuasive. Most notably they failed to point out the errors in the rejection- rather the arguments just argued the conclusion. Applicant is required to specify what errors were made by the Office. For example, the rejection regarding claim 9, Applicant turns to the specification but fails to address the claim language and how the reasoning and/or facts of the rejection are in error. The arguments appears to be mere gainsay. It is argued that claim 43 requires inserting the body into "either the first end or the second end". That may have been Applicant's intention, but the claims do not state such. The fact remains that Examiner does not understand this language - and examiner submits that it is a prima facie showing that it is indefinite. Applicant merely gainsays that the language is definite and fails to point out why it is. For claims 47-49 - Applicant merely argues it is definite: there is no indication of what the Office's error is, or even what the confusing language is suppose to mean. It is argued that the prior art does not recognize using deuterated glass objects that are not in the final fiber. As indicated in the rejection, the prior art reasonably suggest that all glass objects be deuterated. The teaching that OH diffusion causes problems is sufficient to apply the prior art teaching of removing all sources of contamination.

Continuation of 10. Other: The finality will not be withdrawn for various reasons: most notably, Applicant originally presented vague claims that precluded examiner from knowing what Applicant considered to be the invention. And that prevented Examiner from knowing what should be searched for and creating the appropriate rejection. Claims 4-5 and 39-40 would have to be put in independent form to be allowed.